

Application No.: 10/540,428
Dated: August 22, 2008
Response

REMARKS/ARGUMENTS

The Examiner has required restriction under 35 USC §121 and §372, identifying the following claim groups: Group I, claims 1 through 16, drawn to a container; and Group II, claims 17 through 32, drawn to a method. Favorable action is respectfully solicited in view of the following.

Restriction Requirement

The Examiner has required restriction under 35 USC §121 and §372, identifying the following claim groups:

Group I, claims 1 through 16, drawn to a container; and
Group II, claims 17 through 32, drawn to a method.

The Examiner has taken the position that:

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: There is no seal in the container as claimed and therefore there is no single general inventive concept.

The Applicant provisionally elects the Group I claims and respectfully traverses this restriction requirement.

The Applicant believes that a single common thread links the two groups identified by the Examiner. Applicant respectfully submits that the two "invention groups" do not in fact represent separate and distinct inventions. The claimed invention relates to a novel container and method. While the Group I claims relate to a container, and the Group II claims relate to a method, it is respectfully

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submitted that the method claimed in the Group II claims is peculiarly related to the apparatus of the Group I claims. Accordingly, it is respectfully submitted that the conclusion that the claims, as grouped by the Examiner in the formation of the instant requirement for restriction lack a single general inventive concept is improper.

It is further submitted that the claims of the designated groups have not necessarily acquired a separate and distinct status in the art for examination purposes. Art very relevant to the patentability of the Group II method claims might very logically be found in the art class assigned to the Group I container claim group. It is further submitted that an important advantage in pursuing just one application encompassing all claim groups is that the examination work of the Patent and Trademark Office would be simplified, insofar as duplication of searching effort would be eliminated.

In view of the foregoing remarks, it is respectfully requested that the Examiner reconsider and withdraw the requirement for restriction and allow all pending claims to be prosecuted in the same application, as directed by MPEP §803. Notwithstanding the above arguments and the request for reconsideration, in the event that the requirement is made final, and in order to comply with 37 C.F.R. 1.143, the applicant provisionally elects claims 1 through 16 (Group I), holding claims 17 through 32 (Group II) in abeyance under the provisions of 37 C.F.R. 1.142(b), until the final disposition of the elected claims.

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It is respectfully submitted that the present claims are in condition for allowance. Prompt notification of allowance is respectfully solicited.

Respectfully submitted,

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